

### **REMARKS**

Claims 5-8, 10-13 and 15-20 are pending in the application and have been rejected.

#### **The Present Invention**

The present invention relates to a category management method, which is exemplified by claim 6 - the sole independent claim:

6. A category management method comprising:  
    obtaining data from plural data sources including a consumer purchase tracking data set and a demographics data set;  
    using automated analysis to analyze at least a portion of said obtained data; and  
    providing an integrated category management report based at least in part on said analysis, said integrated category management report being a targeted opportunity assessment and market analysis at least partially customized for an intended retailer end user. (emphasis added)

The method comprises a three step process, comprising 1) obtaining data, 2) analyzing the data, and 3) providing an integrated category management report based at least in part on said analysis.

The product of the method is unique. The product is an “integrated category management report,” which is a defined term that provides a significant distinction. “Category Management” is more than simply carrying out inventory control, but involves understanding the product desires of the customer demographic of a particular store, and recognizing the best product offerings and presentation of the products within that retail location to maintain customers and generate more sales. (page 1, paragraph [0003]). An integrated category management report is not a mere organization of information from various databases, but instead is a targeted opportunity assessment and market analysis at least partially customized for the intended end user. (page 7, paragraph [0018]).

Collection and correlation of information needed to carry out such analysis can be extremely burdensome, and taking the next step to actually carry out the analysis meaningful to a specific retail location is overwhelmingly difficult. (page 4, paragraphs [0009] and [0010]).

The present claims specifically require that the report is customized for an intended retailer end user. This is significant, because the report provides an accessible analysis that was not previously available to these customers. The integrated category management report provides information not limited to promoting sales of a single product in competition with another product, or of choosing which product to offer that a customer will want, but instead provides the retailer with a strategy of a combination of different products or product brands that will generate more sales and improve customer satisfaction with the retail establishment (page 2, paragraph [0005]).

The present invention provides significant advantages in providing timely relevant information to retailers that can be tailored to provide useful information for operation of a single retail outlet. Through the method of the present invention, multiple dynamically changing data streams can be analyzed to provide a sophisticated retail marketing plan that far exceeds the capabilities and impact of ordinary inventory control techniques. Further, the method of the present invention makes such sophisticated opportunity assessments and market analyses available to smaller retailers and to a degree of detail that was not possible before. See the present specification at pages 4-6.

### **Claim Rejections – 35 USC § 102**

Claims 5-8, 10, 12, 15, and 18 have been rejected under 35 U.S.C. 102(e) as being anticipated by Johnson (US 2002/0082900 A1).

Johnson describes a web-based solvent supplier information site. In this system, customers input their needs and the site directs them to different suppliers and products. The Johnson system additionally collects market trend data and issues rebate certificates to the customer/users (Johnson paragraph [0006]). The Johnson system additionally generates a report to the suppliers, that is a listing of the inquiry history of specific buyers on the website -such as which solvents they wanted to look at, which solvents they did

not want to look at, Sample Requests and Requests for Quotes. (Johnson paragraphs [0038]-[0043]).

The collected data is sent to suppliers so each supplier can make individual business and marketing decisions (i.e. find ways to sell their individual products (Johnson paragraph [0008])). Thus, Johnson never gets past the first step of the instant claims - of obtaining and communicating data.

The Johnson system does nothing to provide a report to increase sales or profits of a retailer in a market category - it only provides data useful to individual suppliers to try to sell their own product to the disadvantage of other suppliers. This is a zero sum game - one supplier wins when another loses. No retailer is provided with an integrated category management report

It is respectfully submitted that the Johnson disclosure describing a system for exchange of information between suppliers and ultimate customers does not anticipate the presently claimed method for providing an integrated category management report that is a targeted opportunity assessment and market analysis at least partially customized for the intended retailer end user.

Additionally, it is noted that the Final Rejection states that Johnson provides a “price quote.” On close review, one will recognize that Johnson actually describes a report of the fact that the customer requested a price quotation (see Johnson paragraph [0065]). This request for price quotation is not a “pricing suggestion” as required in instant claim 15.

### **Claim Rejections – 35 USC § 103**

Claims 11 and 20 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (US 2002/0082900 A1), as applied to claim 6 above, and further in view of Dippold, (US 2002/0133479 A1).

The claims of this rejection relate to providing (1) a method comprising a score card that tracks said category management over time and (2) the method wherein at least one of said data sets relates to cereal.

Dippold describes a market research database that facilitates the management of, and access to, information related to agricultural products, including cereal. This system collects data about products from various sources and links this information by UPC code. See paragraphs [0007], [0024], [0025] and [0033]. The thus correlated information can be retrieved by UPC code, and on a selective basis can be made available for purchase by third parties on a controlled and restricted basis. See Paragraph [0008].

The system discussed in Dippold is in fact identified in the present application as one of the data inputs to be contained in the supporting database. See instant page 9, line 11, which describes the market research data provided by the A.C. Nielsen Company. The data as described in Dippold therefore corresponds only to the first element of the present claim, (i.e. "obtaining data"). Dippold thus provides a database of background information, and does not carry out the additional steps of automated analysis and providing an integrated category management report that is a targeted opportunity assessment and market analysis at least partially customized for the intended end user. Dippold provides no reason for the skilled artisan to carry on the additional steps required in the present claims. The skilled artisan is not taught, and would not have contemplated, preparation of a complete targeted opportunity assessment and market analysis at least partially customized for the intended retailer end user in view of the Dippold disclosure.

Dippold is therefore similarly situated to Johnson, because it does not provide a reason to prepare a complete targeted opportunity assessment and market analysis at least partially customized for the intended retailer end user. It is respectfully submitted that the combination of Dippold with Johnson falls far short of the presently claimed invention. Rather, the combination of Johnson with Dippold would result in a system to supply product inquiry and purchase information from customers to individual cereal suppliers, and not information to the retailer that would help the retailer maximize profits and sales of all cereals.

Claim 11 has specifically been discussed in the outstanding 103(a) rejection of the Final Office Action, focusing on the preferred embodiment where a score card is provided that tracks the category management over time.

In the present specification, a score card is defined in paragraph [0016] as a formatted presentation that tracks retailer progress after objectives and action plans have been defined. In contrast, paragraph [0033] of Dippold does not describe a score card, but rather discusses “scoring rules” for a data mining software program. Thus, the subject matter of the present claim is in no way taught or suggested by Dippold. It is respectfully submitted that the claim, when properly read in light of the specification, clearly relates to a different concept than taught by the reference.

Claim 20 has also specifically been discussed in the outstanding 103(a) rejection of the Final Office Action, focusing on the preferred embodiment where one of the data sets relates to cereals. As noted above, however, the disclosure of Dippold stops at the first step of the three part process recited in claim 6. Applicant does not claim to be the first to present data related to breakfast cereals, but does claim to be the first to obtain data, perform a subsequent automated analysis on the obtained data, and then generate a targeted opportunity assessment at least partially customized for the intended retailer end user. It is respectfully submitted that claim 20 is not rendered obvious by Johnson in combination with the Dippold disclosure.

Claims 13, 16, 17, and 19 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (US 2002/0082900 A1), as applied to claim 6 above, and further in view of McConnell et al, (US 2001/0049690 A1).

As noted above, Johnson discloses a centralized system for providing information of several suppliers to a user over the Internet in order to satisfy user defined needs, collecting market trend data and issuing rebate certificates.

In contrast, McConnell discloses an inventory control system that monitors the effective velocity of items through a store or warehouse. This system provides effective inventory control (i.e., tells the store inventory manager when to restock product), which is very useful and important in operating a store or a group of stores.

The two systems described in the cited prior art are separate tools that are addressed to different professionals in the retail industry – the supplier/ultimate-customer (in the case of Johnson) and the store manager in charge of stock inventory (in the case of

McConnell). It is respectfully submitted one would have had no reason to combine these references because of their different applications and intended users. Additionally, even if one would combine the references, the combination falls far short of teaching or suggesting an integrated category management report using automated analysis that is a targeted opportunity assessment and market analysis at least partially customized for the intended retailer end user, as presently claimed. Neither reference performs or suggests an automated assessment as required in the present claims, and neither reference suggests generation of a targeted opportunity assessment and market analysis. Such a report would not have been contemplated, because the references do not address the unique challenges of category management issues related to decreased sales and diminished customer satisfaction that occurs by staying with established stocks of products. See instant paragraph [0004]. Thus, the presently claimed invention efficiently addresses problems that are not considered by the cited prior art.

The outstanding 103(a) rejection focuses on the preferred embodiments where a report is delivered over a network or a LAN, or where the report contains a suggestion for improvement or a planogram. As noted above, the references fail to teach or suggest an integrated category management report as presently claimed. Because the present report itself is not obvious as discussed above, dependent claims additionally reciting the method of communicating the report are also not obvious.

It is therefore respectfully submitted that the present claims are not obvious over Johnson in view of McConnell.


### **CONCLUSION**

It is respectfully submitted that the outstanding Final Office Action is in error, because the references have been improperly construed to mean more than they describe. The report as described in the claims is different from the products of the prior art because it maximizes profit from a product category perspective for a retailer, and not from a product or product line from a manufacturer or supplier. Reconsideration of the factual disclosures of the prior art and withdrawal of the outstanding rejections is therefore respectfully requested.

In the event that a phone conference between the Examiner and the Applicants' undersigned attorney would help resolve any remaining issues in the application, the Examiner is invited to contact the attorney at (651) 275-9811.

Respectfully Submitted,

Dated: May 27, 2008

By:   
Dale A. Bjorkman, Reg. No. 33,084  
Phone: 651-275-9811  
Facsimile: 651-351-2954

44743